COUNTY DEPARTMENT AGENDA REQUEST

Department:	Planning and Zoning	Presenter(s):	Pete Frisina
Meeting Date:	Wednesday, March 2, 2011	Type of Request:	Old Business

Wording for the Agenda:

Director of Community Development Pete Frisina will discuss how the Zoning Ordinance relates to the number of animals allowed; and the issue of beekeeping.

Background/History/Details:

On December 9, 2010, the Board of Commissioners adopted the revised Zoning Ordinance, in its entirety. The Board of Commissioners instructed staff to bring the aforementioned issues back before them for further direction.

For the discussion on beekeeping, Mr. Mike Maxwell will be present to take part in the discussion. He is a citizen involved in beekeeping who has been in contact with our Planning and Zoning staff over the past several months. He wishes to provide some input to the Commissioners. Policy allows him to do so.

Staff needs consensus on whether or not to move forward with amending the Zoning Ordinance relative to these issues. If there are to be changes, proposed amendments will be advertised for public hearings before the Planning Commission and then the Board of Commissioners.

What action are you seeking from the Board of Commissioners?

Direction from the Board of Commissioners on how they would like staff to proceed.

If this item requires funding, please describe:

Funds are not needed at this time, but will be part of an overall cost to update the Fayette County Code.

Has this issue come before the Commissioners in the past?	No	If so, when?	
Do you need audio-visual for the presentation?	No	Back-up Material Submitted?	Yes

STAFF USE ONLY

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	Approved by County Clerk	Yes
Administrator's Approval	Yes		

Staff Notes:

Michael A. Maxwell

125 Northwind Trail
Fayetteville, Ga. 30214

February 16, 2011

Board of Commissioners
140 Stonewall Avenue West
Suite 100
Fayetteville, Ga. 30214

Dear Sirs:

I am requesting that you reconsider the current Fayette County zoning regulations that prohibits the possession of honey bee hives in R – 40 zoning.

The current regulations pertaining to the Permitted Uses in R 40 Single-Family Residential District state that the only permitted uses in this zoning category are Single – Family Dwellings; Accessory buildings, and uses and Growing crops, gardens.

This is in contrast to A-R Agricultural – Residential District permitted uses includes the raising of livestock and the sale thereof.

The Fayette County Zoning enforcement officials consider honey bees as livestock and there for prohibited in R -40 zoned areas.

I am requesting that you refer this issue to the appropriate review process for consideration of allowing possession of honey bees in R – 40 zoning.

There has been a precedent set for this action as it pertains to horses and their designation as live stock and still be allowed in a limited fashion in R -40 zoning.

I request that I be allowed to present my request in person at the March 2, 2011 work session of the Fayette County Board of Commissioners.

Thank you for you consideration in this matter and I look forward to personally presenting my request at the March 2nd meeting.

Sincerely Yours,

Michael A. Maxwell

To: Board of Commissioners

From: Pete Frisina

Date: February 16, 2011

Subject: Discussion of the Zoning Ordinance Regarding the Number of Animals and Beekeeping.

Number of Animals

The number of dogs and cats that may be kept on a lot (residential or nonresidential) is controlled through zoning under the regulations for a Kennel which is somewhat of a backdoor approach. Under Article III. the definitions of Animal and Kennel are utilized. The definitions are as follows:

> Animal. For the purpose of this ordinance, the word animal shall mean either a domestic dog (canis familiaris) or domestic cat (felis catus). It shall not include livestock (see Sec. 3-62.) The number of animals kept shall be limited to three (3).
>
> Kennel. Any location where any combination of animals are kept in excess of three (3) shall be deemed to be a kennel. This definition does not include not more than one (1) litter of dogs or cats of not more than six (6) months of age.

Based on these definitions any location (including a private residence) where three or more animals (which includes dogs and cats or a combination there of) are kept is considered a Kennel. In addition, the definition of Animal actually contains the restriction on the number of dogs and cats. Staff has strived to eliminate regulations from definitions.

A Kennel is a Conditional Use in the A-R, C-C, C-H, and M-1 zoning districts. The Conditional Use requirements are as follows:

> *Kennel.* (See Animal Hospital, Kennel (Commercial or Non-Commercial) and/or Veterinary Clinic)
>
> *Animal Hospital, Kennel (Commercial or Non-Commercial) and/or Veterinary Clinic.* (Allowed in A-R, C-C, C-H, and M-1 Zoning Districts):
>
>> All structures, pens, runs, or enclosures shall not be located closer than 300 feet from any A-R or residential zoning district.

Based on this Condition Use requirement, a Kennel, as defined above, is not allowed in any residential zoning district. The only situation where a resident could have more than three animals as pets is in A-R as a "Non-Commercial Kennel." To further complicate matters in this case, the condition states that "All structures, pens, runs, or enclosures shall not be located closer than 300 feet from any A-R or residential zoning district." Staff has essentially had to tell someone if the animals are kept primarily in the residence, then the residence needs to meet the 300 foot setback. In addition, Animal Hospitals and Veterinary Clinics have to meet the 300 foot setback and a pet store where cats and dogs are sold is technically a Kennel and must meet the 300 foot setback.

If it is the intent of the Board to control the number of dogs and cats that can be kept as pets by zoning district, then the Zoning Ordinance is the best place to accomplish this. If the intent is to control the number of dogs and cats that can be kept as pets regardless of zoning then it may be better controlled through a mechanism other than zoning. However, the location and regulation of a non-residential use where dogs and/or cats are cared for, sold, breed or boarded should be addressed by the Zoning Ordinance.

Beekeeping

Beekeeping is becoming popular. The Zoning Ordinance does not specifically address beekeeping. Staff has addressed the subject by using the following provision in Article V:

> **Sec. 5-3. Use, Prohibited.**
> If either a use or class of uses is not specifically indicated as being permitted in a zoning district, either as a matter of right or as a conditional use, then such use, class of uses, or structures for such uses shall be prohibited in such zoning district, except as otherwise provided herein.

Beekeeping is regulated under the Georgia Department of Agriculture; therefore staff has concluded that beekeeping is in a class of uses that are agricultural in nature and would be allowed in A-R. There have been two situations where beekeeping has been brought to the attention of staff and both have been related to complaints in residential subdivisions. Staff is seeking direction from the Board to determine which zoning districts beekeeping should be allowed.